

REMARKS

Reconsideration of this Application is respectfully requested. Claims 3, 5-7 and 9-16 have been withdrawn from consideration by the Examiner and are, therefore, cancelled, without prejudice or disclaimer. Claims 1 and 17-20 are amended, also without prejudice or disclaimer. Claims 1, 2, 4, 8 and 17-20 remain in this case.

Initially, the Examiner indicates that claims 3, 5-7 and 9-16 have been withdrawn from further consideration under 37 C.F.R. § 1.142(b) for being directed to a non-elected invention. According to the Examiner, there is no allowable generic or linking claim.

The Examiner then acknowledges and responds to Applicant's Election Of The Invention And Response To Restriction Requirement dated January 18, 2006. In particular, the Examiner takes the position that while Applicant has elected Species 1, Figure 1, with traversal, such traversal, he asserts, fails to point out any deficiencies between the method of making the group and the article made group of claims. He notes, in this regard, that Applicant has not traversed the species requirement. The Examiner, however, agrees that claim 1 is generic, stating that such has been examined, accordingly, with the elected Species.

In addition, the Examiner indicates that Applicant's contention that claims 1-8 and 17-20 read on the elected invention, Species 1, Figure 1, is "not entirely accurate". More specifically, the Examiner argues that claims 3 and 5 are drawn to the Species in Figures 9-11 and that claims 6 and 7 are directed to the Species set forth in Figure 2, which collectively have not been elected by Applicant. Thus, he clarifies, the claims that read on the elected Species (and have been examined) are claims 1, 2, 4, 8 and 17-20. The Examiner then reasserts that the Restriction Requirement is deemed proper and is,

therefore, made final.

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In response, notwithstanding Applicant's Election and cancellation of the claims withdrawn from consideration by the Examiner, Applicant respectfully maintains his position, and believes, that claim 1 is a generic or linking claim with respect to "Species" purported to be shown in FIGS. 1-11.

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Turning now to the particulars of the Office Action, the Examiner rejected claims 1, 2, 4, 8 and 17-20 under 35 U.S.C. § 112, second paragraph, for indefiniteness as to the limitation "at least two chains arranged side-by-side and generally in the same plane". According to the Examiner, the recitation of "generally in the same plane" is not accurate. He explains that since the chains are flexible and bend relative to one another, they are in the same plane only when they are either hanging vertically in a still state or when they are stretched out flat on a table. The "prior art of record" has, therefore, been applied, the Examiner says, in accordance with such interpretation of "generally in the same plane". In addition, the Examiner comments that the limitation "and the like" has been held indefinite by the Courts, and asks Applicant to indicate the scope of the same.

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Based on the foregoing, Applicant has undertaken to amend claim 1 to clarify "and the like" as - - or like ornamental articles - -, to better define the invention without limiting effect. For consistency, corresponding language in claims 17-20 is amended voluntarily by Applicant to delineate "or like article" as - - or like ornamental article - -, also to better define the invention without limiting effect.

Regarding the Examiner's rejection of the language "at least two chains arranged side-by-side and generally in the same plane", however, Applicant respectfully disagrees. In particular, given the nature of chains, we submit, language stating how multiple chains are arranged and recitation of a reference plane for purposes of describing their geometry is considered necessary both to properly claim Applicant's invention and for Applicant's claims to comply § 112, second paragraph. Further in this regard, it is respectfully submitted that those skilled in the art of gold, jewelry or like ornamental articles will appreciate the flexible nature of such chains and the structural meaning of Applicant's reference language above.

Withdrawal of the Examiner's rejection under § 112 is, therefore, deemed appropriate.

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Next, the Examiner rejected claims 1, 2, 4, 17, 18 and 20 under 35 U.S.C. § 102(b) as "clearly" anticipated by Fassnacht, U.S. Patent No. 1,810,040. It is respectfully noted, however, that no item-by-item comparison of Fassnacht to Applicant's claims is provided.

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The Examiner also rejected claim 19 under § 102(b) as anticipated by O'Connor, U.S. Patent No. 2,500,373. According to the Examiner, O'Connor discloses a plurality of chains 22 spaced apart by a plurality of crosspieces 10 wherein their structure comprises an alternating sequence of links and crosspieces generally aligned with one another. The chains and crosspieces, the Examiner continues, all lie in the same plane when the chains are stretched out over a flat table.

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Finally, the Examiner rejected claim 8 under 35 U.S.C. § 103(a) as being obvious and, therefore, unpatentable over Fassnacht. Specifically, the Examiner takes official notice that jewelry chains made from multiple chains of different metals are old and well known. Accordingly, he concludes that it would have been obvious to make the chains in Fassnacht from different metals to increase the beauty of the ornamental chain.

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Applicant, however, respectfully disagrees with the Examiner's reading and application of the cited references.

First, we respectfully submit that Fassnacht uses a pair of *parallel chains* and *cross bars* made of *flat* pieces, whereas Applicant constructs both his *chain links* and connection *crosspieces* of *metallic wire*.

Second, the cross bars of Fassnacht are engaged with chain links in a substantially *articulated* way. This, we respectfully submit, is contrary to Applicant's invention which provides connection crosspieces that are *welded* to the outer edge of the links.

As a result of these differences in construction, Applicant's invention yields a chain structure, whether stretched out flat on a table, hanging vertically or draped over a curved surface, having an appearance and wearability that is not only distinct, but also completely different from that of Fassnacht.

Based on the foregoing, Applicant has undertaken to clarify claims 1 and 17-20 by adding the language - - the chains and crosspieces having, at least in part, a generally cylindrical cross-section - -, to better define the invention in view of Fassnacht.

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Referring now to O'Connor, we respectfully submit that, from the outset, this reference neither discloses nor does it suggest Applicant's invention, as claimed.

Briefly, O'Connor is directed to an antiskid tire chain, namely, a chain structure for improving antislip characteristics and tire traction of vehicles - not gold, jewelry or like articles. O'Connor also does not address, nor could he solve, the problems remedied by Applicant's invention using the disclosed structure, namely, Applicant's stated objectives in: (i) providing a semi-finished gold, jewelry or like article having an interlinked structure, as well as a method for producing the article that can serve as a base for the manufacture of gold and/or jewelry articles such as necklaces, chokers, bracelets, ear rings, pendants or the like in a relatively large variety of models; (ii) making it easier for, and to stimulate the creativity of, gold and/or jewelry article designers to develop new ornamental shapes and production techniques having a relatively high degree of flexibility; and (iii) providing a semi-finished product usable as a basis for the production of a relatively large variety of articles using a simple and economical procedure that can be readily automated with the use of machines of substantially conventional arrangement.

Even if the teachings of O'Connor addressed similar problems from an analogous art, we respectfully submit, the construction described by O'Connor is entirely distinct and different from that of Applicant's.

First, the side chains of O'Connor are connected by transverse chains rather than metallic wire crosspieces, as are utilized by Applicant. This provides considerable differences in structure, function and appearance.

Second, as was also the case in Fassnacht, O'Connor uses transverse chains that are articulated to the links of the side chains, and are *not welded*, yielding even greater

differences in appearance, not to mention, a change in both structure and function.

Given these differences in construction, the appearance and wearability of Applicant's invention, we respectfully submit, is entirely different from that of O'Connor, which, we note further, is neither structurally similar nor "wearable" as gold, jewelry or like ornamental article.

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Applicant has undertaken, in addition, to amend the Specification and the Claims, without prejudice or disclaimer, to further comport with U.S. practice and, in so doing, to better define the invention without limiting effect.

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We respectfully submit that none of the cited references, whether taken alone or in any combination, disclose or suggest Applicant's invention, as claimed. Withdrawal of the Examiner's rejections under §§ 102(b) and 103(a) is, therefore, respectfully requested.

Applicant has made a good faith attempt to place this Application in condition for allowance. Favorable action is requested. If there is any further point requiring attention

prior to allowance, the Examiner is asked to contact Applicant's counsel at (646) 265-1468.

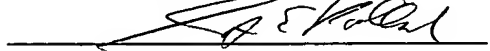
Respectfully submitted,

Dated: October 2, 2006

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, in an envelope with sufficient postage addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on October 2, 2006

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